

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
1:19-cr-63-MOC-WCM**

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UNITED STATES OF AMERICA,)

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Plaintiff,)

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v.)

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)

JOSEPH CECIL VANDEVERE,)

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Defendant.)

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ORDER

Upon consideration of the Motion Under Common Law Right of Access for Release of Exhibits filed by counsel for Qasim Rashid (Doc. No. 81) and the Joint Memorandum in Support filed by the United States Department of Justice and counsel for Qasim Rashid (Doc. No. 83), the Court finds as follows:

1. Mr. Rashid seeks access to the full content of the following records, listed in ECF No. 44, which admitted into evidence in the criminal trial of this matter (the “Vandevere Trial Exhibits”):

- Gov-1, Screenshot of Facebook threat against Jewish Synagogue (Rabbi Jacobs)
- Gov-2, Facebook emergency disclosure subscriber business records (Bob Smith Account)
- Gov-3, Facebook emergency disclosure business records affidavit (Bob Smith Account)
- Gov-4, Redacted Twitter threat with lynching photo

- Gov-5, Facebook business records CD
 - Gov-5-A, Facebook record, Page 3
 - Gov-5-B, Facebook record, Page 138
 - Gov-5-C, Facebook record, Pages 144-145
 - Gov-5-D, Facebook record, Pages 147-148
 - Gov-5-E, Facebook record, Page 150
 - Gov-5-F, Facebook record, Page 218
 - Gov-5-G, Facebook record, Page 306
 - Gov-5-H, Facebook record, Page 307
 - Gov-5-I, Facebook record, Page 308
 - Gov-5-J, Facebook record, Page 319
 - Gov-5-L, Facebook record, Page 645
 - Gov-5-M, Facebook record, Page 646
- Gov-7, Twitter business records CD
 - Gov-7-A, Twitter exhibit account info
 - Gov-7-B, Twitter exhibit phone number
 - Gov-7-C, Twitter exhibit IP address
 - Gov-7-D, Twitter exhibit Tweet NC Mountains
 - Gov-7-E, Twitter exhibit Tweet @MuslimIQ on 3/21/18 at 1537
 - Gov-7-F, Twitter exhibit Tweet @MuslimIQ on 3/21/18 at 1538
 - Gov-7-G, Twitter exhibit Tweet @MuslimIQ on 3/21/18 at 1759
 - Gov-7-H, Twitter exhibit Tweet @MuslimIQ on 3/21/18 at 1909
 - Gov-7-I, Twitter exhibit Twitter lynching photo # 1

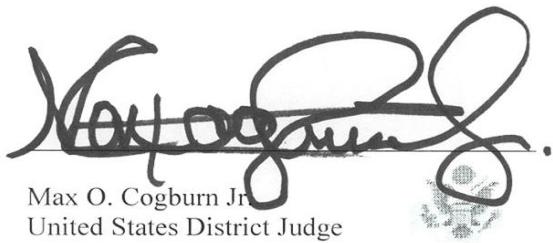
- Gov-7-J, Twitter exhibit Twitter lynching photo #2
 - Gov-8, Twitter business record affidavit
 - Gov-9, Video of Defendant's interview
 - Gov-9-A, Transcript of Interview
 - Gov-9-B, Video of Defendant's interview synchronized with transcript
 - Gov-11, "Prob and 334 other like a Tweet you were mentioned in.docx"
 - Gov-13, Tweet with Threat to QR
2. By virtue of having been admitted as evidence in a criminal trial, the Vandevere Trial Exhibits are part of the public record.
3. "The common law presumes a right of the public to inspect and copy all 'judicial records and documents.'" Stone v. Univ. of Md. Med. Sys. Corp., 855 F.2d 178, 180 (4th Cir. 1988) (quoting Nixon v. Warner Commc'nns, Inc., 435 U.S. 589, 597 (1978)). This presumption of access can be rebutted only if "countervailing interests heavily outweigh the public interests in access." Rushford v. New Yorker Magazine, Inc., 846 F.2d 249, 253 (4th Cir. 1988). "The party seeking to overcome the presumption bears the burden of showing some significant interest that outweighs the presumption." Id. The decision whether to grant or restrict access to judicial records or documents is ultimately a matter of the Court's discretion "to be exercised in light of the relevant facts and circumstances of the particular case." Nixon, 435 U.S. at 598–99.
4. Here, Mr. Rashid has a presumptive right to obtain the trial exhibits that were made part of the public record in the criminal prosecution of Defendant Vandevere. The public has an interest in the documents because they were used as part of a criminal prosecution. Mr. Rashid has an even greater interest in the documents because he was the victim of Defendant Vandevere's actions for which Defendant Vandevere was prosecuted, convicted, and imprisoned.

Additionally, Defendant Vandevere has consented to the disclosure of information in the possession of the Department of Justice to Mr. Rashid's counsel.

Finding good cause to approve the Motion, **IT IS HEREBY ORDERED** that the motion is **GRANTED**, and that the above-identified exhibits shall be released to counsel for Qasim Rashid. The Court directs the United States Attorney's Office, pursuant to 5 U.S.C. § 552a(b)(11) of the Privacy Act and 18 U.S.C. § 2707(e)(1) of the Electronic Communications Privacy Act, to provide the aforementioned publicly filed Vandevere Trial Exhibits to Mr. Rashid's counsel.

SO ORDERED.

Signed: October 22, 2021



The image shows a handwritten signature in black ink, appearing to read "Max O. Cogburn Jr.". Below the signature, there is a small, faint, circular official seal or stamp.

Max O. Cogburn Jr.
United States District Judge